

Mr. Ankush Parsharam Jadhav ...Appellant
vs.
Mrs. Deepa Babanrao Desai
and anr. ...Respondents.

Dilip Bodke for the appellant.
Mrs. M.M. Deshmukh, A.P.P. for the State.

CORAM: D.B. BHOSALE, J.

JUNE 29, 2006.

P.C. :

1. This is an application under Section 378(3) of the Criminal Procedure Code seeking leave to appeal against the judgment and order of acquittal of the offence punishable under Section 138 of the Negotiable Instruments Act.
2. The case set up by the complainant was

that he paid Rs.2 lacs in cash to the accused as a loan to pay the medical bills of her husband and to purchase a flat on 15.4.2002 at village Pusegaon. The accused in rebuttal, cross examined one Vilas P.W. 2 to establish that on 15.4.2002 she was in Pune and on duty in Sanjivani Hospital. She has also produced the attendance certificate and muster roll to show that on 15.4.2002 she was on duty since 8.30 a.m. to 4.30 p.m. in the hospital at Pune. The learned Judge has considered the evidence in rebuttal in para 12 of the judgment which clearly spells out that she was at Pune on 15.4.2002. It appears that after the evidence was laid by the accused in rebuttal, the complainant took a stand that he paid the amount of Rs.2 lacs in cash on the night of 15.4.2002 for which she had gone to Pusegaon from Pune after her duty hours in the hospital got over. Such stand is not reflected either in his evidence or in the complaint. The Magistrate after appreciating the evidence on record has rightly accepted

her evidence in rebuttal and dismissed the complaint. Considering the reasons recorded by the court below, the impugned judgment cannot be said to be perverse or unreasonable. The view taken by the learned Magistrate is reasonably possible view. In the circumstances, the application seeking leave to appeal against the judgment and order is dismissed.

sd/-

(D.B. BHOSALE, J).